COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss. Division of Administrative Law Appeals

Bennedetto DiIorio,
Petitioner

v.

Department of Veterans' Services,
Respondent

Docket No: VS-08-184

State Case No. 309-840

Date: July 2, 2008

Appearance for the Petitioner: Bennedetto DiIorio, *pro se*
37 Belleview Ave.
Salem, MA 01970

Appearance for Respondent: Lawrence J. Feeney, Esq.
General Counsel
Dep't of Veterans Services
600 Washington St., Suite 1100
Boston, MA 02111

Administrative Magistrate: Mark L. Silverstein, Esq.

DECISION

Introduction

In sustaining the denial of M.G.L. c. 115 benefits to a U.S. Navy veteran for lack of financial eligibility, the Department of Veterans Services (DVS) improperly counted his wife's monthly

annuity toward the maximum qualifying monthly income for a benefits applicant living with a spouse. DVS should have counted only his income (in this case, a monthly Social Security disability payment), which was below the monthly maximum income qualifying for M.G.L. c. 115 benefits. The DVS decision sustaining benefits denial is therefore vacated, and the matter is remanded to the City of Salem Department of Veterans Services to determine, consistent with this Decision, whether the applicant is entitled to any benefits under M.G.L. c. 115.

Background

Petitioner Bennedetto DiIorio appeals from a decision by DVS dated March 5, 2008, which sustained, after a hearing, a decision by the City of Salem Department of Veterans' Services denying his application for veterans benefits pursuant to M.G.L. c. 115 for lack of financial eligibility (the DVS Decision). In determining that Mr. DiIorio's income exceeded the maximum monthly "budget" allowed by DVS for a benefits applicant living with a spouse ($1,975.00 per month), DVS counted both his $750.00 monthly Social Security disability income and his wife's monthly annuity income of $5,000.00.[1]

DVS concluded that "[a]ll income that is coming into the household is countable income for the purposes of this needs based, means tested program" of benefits. DVS Decision at 3. The

[1]/ The City of Salem Department of Veterans' Services also denied benefits to Mr. DiIorio based upon a child support payment arrearage. See 108 CMR 3.06(1) ("The veterans' agent may...disqualify the following categories of persons from eligibility for benefits...(a) A veteran who has neglected to support his or her dependents."). However, by Order dated January 10, 2008, the Essex County Probate and Family Court determined that Mr. DiIorio owed no further child support payments based upon a stipulation and agreement for judgment which recites that he is "unable to work due to a brain aneurysm and is under medical care," that his child forgave "all arrears as well as any interest that may be due to her," and that the Massachusetts Department of Revenue waived all penalties. See Exh. 5. The Court's Order eliminated the child support arrearage issue, DVS Decision, at 2, and accordingly DVS did not base its decision upholding benefits denial upon failure to pay child support.

Decision identified no provision of M.G.L. c. 115 or of the DVS regulations, 108 CMR 1.00 et seq., that directs it to count the income of a spouse in determining whether an applicant is eligible for M.G.L. c. 115 benefits, or that defines an applicant's assets or income sources to include the income of his spouse. DVS reasoned, however, that because (a) Massachusetts "makes no exclusions for 'non-marital' or 'separate' property from the assets subject to division incident to" a divorce or intestacy, DVS Decision, at 2, and (b) Massachusetts courts may "assign to one party in a divorce proceeding all or part of the separate non-marital property of the other in addition or in lieu of alimony," DVS "cannot therefore allow for such distinction" between the applicant's income and assets and those of his spouse. DVS Decision, at 3. DVS also reasoned that counting spousal income in determining an applicant's financial eligibility was consistent with legislative intent to make M.G.L. c. 115 benefits available to only the neediest veterans as a form of public assistance Id. With both Mr. DiIorio's monthly Social Security disability income and his wife's monthly annuity income counted, DVS concluded that "this couple is well over the allowable income and asset level to be eligible for state funded financial support." Id.

Contending, as he did before DVS, that his wife's annuity income was not his income or asset and should not be counted as such in determining his financial eligibility for M.G.L. c. 115 benefits, Mr. DiIorio appealed the DVS Decision, pursuant to M.G.L. c. 115, § 2, by filing a timely hearing request with the Division of Administrative Law Appeals (DALA) on March 10, 2008. I held a hearing on May 12, 2008 at DALA, 98 North Washington Street, Boston.

DVS offered 5 documents that I admitted into evidence (Exhs. 1-5). Mr. DiIorio offered 5 documents that I also admitted into evidence (Exhs. A-E). At my request, DVS filed and served, later the same day, documents comprising the current DVS Secretary's "Budget Amounts Directive"

that prescribes (among other things) the maximum monthly income above which an applicant living with a spouse is ineligible to receive M.G.L. c. 115 benefits. I marked these documents collectively as Exh. 6.

Because the parties agreed that none of the material facts were disputed, neither of them presented witness testimony, and instead both argued their respective positions before me.

I made one tape of the hearing and closed the record at the hearing's end, except for receipt of the Secretary's Budget Amounts Directive that DVS filed and served later that day.

Findings of Fact

The material facts are not disputed, and I find them as follows:

1. Petitioner Bennedetto DiIorio is an honorably discharged veteran of the United States Navy. He was on active duty in the Navy from June 16, 1977 until October 15, 1977, followed by reserve duty until June 4, 1981. Exh. 3 (Record of separation from active duty).

2. Mr. DiIorio has been married to Ellen M. Kelleher since June 28, 2004, and both of them reside in a house at 37 Belleview Avenue in Salem, Massachusetts that Ms. Kelleher purchased before this marriage and that she alone owns. Exh. 4 (Application for Veterans' Benefits under M.G.L. c. 115 dated December 1, 2007); Exh. A (City of Salem real estate tax bill, FY 2008, fourth quarter, dated March 31, 2008).

3. Ms. Kelleher purchased a personal retirement annuity contract from Fidelity Investments Life Insurance Company (No. 232166986) from which she receives a monthly annuity payment of $5,000.00. DVS Decision, at 2; Exh. B (Fidelity revised annuity profile dated December 17, 2007).

4. The sole beneficiary of the Fidelity annuity contract is Ms. Kelleher's brother, Michael

J. Kelleher. Exh. B (Fidelity revised annuity profile dated December 17, 2007).

5. Mr. DiIorio receives a monthly Social Security disability payment of $731.00.

6. The total monthly income of Mr. DiIorio and his wife is $5,731.00 ($5,000.00 monthly Fidelity Fund annuity payment plus $731.00 monthly Social Security disability payment).

7. The DVS Secretary's current Budget Amounts Directive, in effect through the end of FY 2008 (through June 30, 2008, in other words), prescribes a maximum monthly "budget" (income) of $1,975.00 for a veteran living with a spouse who seeks ordinary benefits and fuel allowances under M.G.L. c. 115. DVS Decision, at 2.

8. For a veteran living with a spouse whose monthly budget exceeds this amount, the monthly "medical only budget" based upon a two-person household and the 200% federal poverty level is $2,333.00. Exh. 6 (Letter, Chief Authorizer, Department of Veterans' Services, to Veterans' Service Officers dated February 25, 2008 re 200% federal poverty guidelines and monthly medical-only budget amounts).

Discussion

Neither the statute nor the DVS regulations direct specifically that a spouse's income, whether from an annuity or otherwise, be counted in computing the income of an applicant for M.G.L. c. 115 benefits and determining whether he is financially eligible for them. In addition, the plain language of neither the statute nor the regulations supports consideration of the spouse's income in determining an applicant's financial eligibility for M.G.L. c. 115 benefits. The regulations are unambiguous, instead, in confining what is considered in making this determination to assets (or portions of them) owned by the applicant, and to income that the applicant himself receives.

Accordingly, DVS should not have counted the monthly annuity income that Mr. DiIorio's wife receives in determining whether his monthly income exceeded the maximum allowed for an M.G.L. c. 115 benefits applicant living with a spouse.

a.

An applicant who is otherwise eligible for veterans benefits under M.G.L. c. 115, as is Mr. DiIorio, must also meet financial eligibility requirements for this form of public assistance. This type of eligibility is based upon both assets and income. Because DVS based its Decision on what it considered to be Mr. DiIorio's "income," only the definition of income is at issue here.

Several words and phrases that mention or relate to "income" appear in M.G.L. c. 115 and in the DVS regulations implementing the veterans benefits program under the statute, 108 CMR 1.00 et seq. These are:

> (a) "income from any source." See M.G.L. c. 115, § 5; see also 108 CMR 5.01(1)(stating the"general rule for determination of benefits");
>
> (b) "alternative sources of income." See 108 CMR 6.01(1)(stating the "general rule" that an applicant's "needs budget" is to be "offset...with alternative sources of income"); see also 108 CMR 6.01(3)(stating the "[a]pplicant's obligation to utilize alternative sources of income"); and
>
> (c) "assets," which are defined and discussed at 108 CMR 6.00, the section of the regulations entitled "Alternative Sources of Income." See, in particular, 108 CMR 6.02 (entitled "Assets"), which defines the word, gives examples of "assets" and discusses the relationship between assets and entitlement to M.G.L. c. 115 benefits).

Neither the statute nor the regulations defines any of these words and phrases to include the income of an applicant's spouse. Neither directs specifically that a spouse's income is to be counted in determining whether an applicant is eligible for M.G.L. c. 115 benefits. The parties did not direct my attention to any court decision or DALA decision deciding whether the spouse's income is

counted in determining eligibility for M.G.L. c. 115 benefits, and I have found none. As best as I can determine, this is a matter of first impression.

I begin with the plain language of M.G.L. c. 115 and the DVS regulations, thus, in deciding whether Ms. Kelleher's monthly annuity income is counted in determining Mr. DiIorio's financial need for M.G.L. c. 115 benefits, turning to extrinsic construction aids (such as the law governing the treatment of non-marital property in computing alimony mentioned in the DVS Decision) only if the statutory or regulatory language is too ambiguous to resolve this issue. See Town of Edgartown v. State Ethics Commission, 391 Mass. 83, 460 N.E.2d 1283, 1286 (1984)(where a statute is plain and unambiguous, it must be construed as written); Tesson v. Dep't of Transitional Assistance, 41 Mass. App. Ct. 479, 671 N.E.2d 977, 980 (Mass. App. Ct., 1996)(a regulation is to be read in the same manner as a statute, and accordingly an unambiguous regulation must be construed as written, and the language of a regulation, like the language of a statute, is not to be enlarged or limited by construction unless its object and plain meaning require this).

The plain language of both M.G.L. c. 115 and the DVS regulations prove to be unambiguous and, thus, determinative here. They neither define income to include the income of an applicant's spouse, nor direct that the income of anyone other than the applicant be counted in determining whether the applicant is financially qualified to receive M.G.L. c. 115 benefits.

b.

Under M.G.L. c. 115, Massachusetts provides financial assistance to indigent veterans and their dependents in order to help defray expenses such as fuel costs and the costs of shelter. The statute provides for the payment of benefits to an eligible veteran, or to an eligible veteran's dependent, in "[o]nly such amount...as may be necessary to afford him sufficient relief or support"

and directs that "such benefits shall not be paid to any person who is able to support himself or who is in receipt of income from any source sufficient for his support." M.G.L. c. 115, § 5 (emphasis added). The statute does not define "income from any source" or "income."

The DVS regulations state that "[t]he payment of veterans' benefits constitutes a grant of public assistance to the veteran or his or her dependent." 108 CMR 5.01(2). Tracking the statutory language quoted above nearly verbatim, the regulations state the "general rule" for determining veterans benefits thus:

> [o]nly such amount shall be paid to or for any veteran or dependent as may be necessary to afford him or her sufficient relief or support and such benefits shall not be paid to any person who is able to support himself or herself or who is in receipt of income from any source sufficient for his or her support.

108 CMR 5.01(1)(emphasis added).

The regulations define "income" in a roundabout manner; 108 CMR 2.02, which defines terms used by the regulations, defines "income" by reference to 108 CMR 6.01(4), which specifies "types of exempt income" not considered to be "alternative sources of income" that offset an applicant's "needs budget." However, the types of exempt income listed at 108 CMR 6.01(4) are all personal to the applicant, such as "[a] veteran's income from annuities received under the provisions of M.G.L. c. 115, § 6B," 108 CMR 6.01(4)(a), "[m]oney which an applicant has received from the United States or the Commonwealth as a 'bonus' for military service or enrollment,"c 108 CMR 6.01(4)(a), and "[p]ayments made to an applicant from the Agent Orange Settlement Fund...", 108 CMR 6.01(4)(e). None of these exempt income sources is income due or payable to someone other than the applicant.

Although no spousal income sources are exempted from consideration as alternate income sources by 108 CMR 6.01(4), it does not follow that a spousal income source must be counted,

therefore, as an applicant's income source. The omission is equally consistent with an intent to avoid unnecessary verbiage—there was no need to list any spousal income source as exempt if spousal income is not counted in determining the applicant's financial eligibility for M.G.L. c. 115 benefits. That proposition is hardly illogical. The DVS regulations do not define a spouse's income source as the applicant's "income" or "alternative income source," and nor do they direct specifically that the income of a spouse be counted in determining benefits eligibility.

c.

I turn now from these definition-related provisions to statutory and regulatory provisions governing benefits determination.

Benefits allowed under M.G.L. c. 115 are paid to a veteran or a veteran's dependent by the city or town in which he or she he resides. The municipality makes this payment via a DVS "veterans' agent," who is generally appointed by the mayor of a city or by the town selectmen—in this case, the director of the City of Salem's Department of Veterans Services. See M.G.L. c. 115, § 3. The veteran's agent pays M.G.L c. 115 benefits according to a schedule that the DVS Secretary reviews, revises and adjusts periodically "to assure that the veteran or dependent is paid benefits as may be necessary to afford him or her sufficient relief or support." 108 CMR 5.01(1).

Budgets for individual benefits applicants are prepared by the municipal veterans' agent according to standards set forth in a table at 108 CMR 5.02, "in combination with the [DVS] Secretary's Budget Amounts directive," 108 CMR 5.02(2). The table at 108 CMR 5.02 recites benefits (such as shelter allowances and fuel allowances) that are available to applicants in various categories, including an "applicant alone" ("Budget 1") and an "applicant and spouse living together" ("Budget 2"). The directive to which 108 CMR 5.02(2) refers prescribes, among other things, the

maximum monthly income (or "budget allowance") for an applicant seeking ordinary benefits and fuel allowances under M.G.L. c. 115, above which the applicant is ineligible for this assistance. The directive also prescribes, for an applicant (or recipient) who is "over the budget allowance" for ordinary benefits and fuel allowances, a slightly higher "medical only budget" (monthly income) that is based upon 200% of the current federal poverty level and the number of persons in a "family unit." 108 CMR 5.02(13); see also Exh. 6 (Letter, Chief Authorizer, Department of Veterans' Services, to Veterans' Service Officers dated February 25, 2008 re 200% federal poverty guidelines and monthly medical-only budget amounts).

Assuming that an applicant's monthly income does not exceed these amounts, the veterans agent must "prepare a budget setting forth the amounts of the applicant's financial needs" in the applicable benefits standard category (such as living with a spouse), and:

> [o]n the basis of this budget, and after taking into consideration alternative sources of income available to the applicant as described in 108 CMR 6.00, the veterans' agent shall make a determination of the amount of benefits which shall be paid to the applicant, notify him or her of the amount and date of payment, and issue a Notice of Determination on a form prescribed by the [DVS] Secretary.

108 CMR 5.01(3).

The regulations require that an applicant "utilize alternative sources of income" in order to qualify for M.G.L. c. 115 benefits. They provide in pertinent part that:

> As a prerequisite of eligibility to receive benefits, the veterans' agent shall require that the applicant file applications and submit documentation thereof to receive any and all alternative types of benefits available to him or her. Alternative sources include but [are] not limited to: VA compensation, VA non-service pension, Social Security, railroad retirement, Supplemental Security Income, workmen's compensation or private pension plans...

108 CMR 6.01(3)(emphasis added).[2]

108 CMR 6.01(3) does not use the phrase "benefits available to his or her spouse" in describing "alternate sources of income" that an applicant must disclose to the veterans' agent. The regulation requires, instead, that the applicant disclose only benefits that are "available to him or her." The phrase "available to him or her" modifies the phrase "alternative benefits," which refers to the "[a]lternative sources" listed in the sentence that follows. A "private pension plan"—one of the alternative income sources listed at 108 CMR 6.01(3)—is considered to be a benefit that the applicant receives, thus, if it is "available to him or her," rather than to someone else exclusively. The same is true of social security benefits.

Per the plain language of 108 CMR 6.01(3), then, monthly social security disability payments to an applicant are unquestionably a "benefit available" to the applicant that must be disclosed to the veterans' agent and counted in determining financial eligibility for M.G.L. c. 115 benefits. Mr. DiIorio's Social Security disability payment of $731.00 per month is, thus, a "benefit available" to him that was counted correctly in determining whether his monthly income met financial eligibility requirements. If Mr. DiIorio also received a monthly payment from his wife's annuity, that, too, would have been a "benefit available" to him and would have been counted properly as well in determining benefits eligibility. That is not the case here, however. Mr. DiIorio receives no monthly payment from Ms. Kelleher's Fidelity annuity, and she alone receives the income from it.[3]

---

[2]/ The regulations list, at 108 CMR 6.01(4), types of alternative income that are "not... counted as income to be deducted in determining veterans' benefits." None of these exempt types of alternative income is at issue here. I note, however, that none of the exempted types of alternate income is described as income received by a spouse, or by any person other than the applicant.

[3]/ Ms. Kelleher stated, in the course of a colloquy during the hearing, that she had "removed" her husband from the Fidelity "account." Ms. Kelleher appeared to be referring to a change of beneficiary (as opposed to annuity income recipient), from Mr. DiIorio to her brother Michael J. Kelleher, who is

In addition to offsetting the applicant's "needs budget" with alternative sources of income, the veterans' agent also must determine "whether an applicant possesses sufficient assets to disqualify him or her from receiving veterans' benefits," and in doing so the veterans' agent must "take into account the liquidity of the assets, that is, the ease with which they may be converted to cash." 108 CMR 6.02(4). The DVS regulations direct that:

> [t]he veterans' agent shall not grant benefits to an applicant who possesses assets that exceed the limits for various categories of applicants set forth in the Secretary's Budget Amounts directive of maximum asset allowances. If an applicant's assets exceed his or her allowance, the veterans' agent shall disqualify the applicant from receiving any benefits payments until the assets are spent down below the allowance limit, at which time the applicant may reapply for benefits...

108 CMR 6.02(5)(emphasis added).

The repeated references to personal possession, such as "applicant's assets" and to what the "applicant" possesses, evince a deliberate choice of language. The plain and ordinary meaning of each of these references is (absent any contrary definition) "assets that belong to the applicant," rather than assets that belong to someone else.

This definition would appear to rule out counting, as part of the applicant's assets, an asset

---

shown as the current annuity beneficiary. See Exh. B; revised annuity profile dated December 17, 2007. There is no evidence that Mr. DiIorio ever received income from this annuity, or that Ms. Kelleher removed him as an income recipient. DVS did not assert that Mr. DiIorio had transferred or assigned income from the annuity or an interest in it; nor did it deny benefits to Mr. DiIorio based upon a transfer of assets or income for the purpose of obtaining M.G.L. c. 115 benefits—conduct that DVS may take into account in determining benefits eligibility. See 108 CMR 6.02(1)(entitled "Divestiture of Income or Assets").

I do not determine whether or not there was a transfer of interest or income that Mr. DiIorio may have had in Ms. Kelleher's Fidelity annuity. That matter is not before me. DVS may investigate the matter further in determining Mr. DiIorio's financial eligibility for M.G.L. c. 115 benefits based solely upon his income and assets, consistent with this Decision. This would include income he may have received directly from Ms. Kelleher's Fidelity annuity (if any), if his right to receive this income was in fact transferred for the purpose of obtaining M.G.L. c. 115 benefits.

owned entirely by another person, such as Mrs. DiIorio's annuity in this case. In fact, DVS does not count the full value of an asset toward an applicant's eligibility for M.G.L. c. 115 benefits even when the applicant co-owns the asset.

Bank accounts are a common example of an asset that an applicant seeking M.G.L. c. 115 benefits may own jointly with another, such as a spouse. The regulations direct that "[t]he value of bank accounts held in more than one name, one of which is the applicant's name, shall be apportioned equally among the co-holders of the accounts." 108 CMR 6.02, first unnumbered para., next-to-last sentence (emphasis added). See also Kuczynski v. Dep't of Veterans' Services, Docket No. VS-95-419 (Mass. Div. of Admin. Law App., Nov. 30, 1995)(one-half of value of bank accounts totaling approximately $28,000 that veteran's widow held jointly with her sister and daughter was properly charged to the widow in rejecting her application for M.G.L. c. 115 benefits, as this far exceeded the maximum asset allowance (at the time) of $800).

Following this approach, which the regulation does not recite as exclusive to jointly-held bank accounts, other jointly-held assets (or income, which is also described as an asset at 108 CMR 6.02) would also be apportioned. In that case, only the value of the applicant's share of a co-owned asset would be counted in determining whether he qualified financially for M.G.L. c. 115 benefits. Under this approach, too, an asset or income source in which the applicant held no interest and from which he received no income would add no apportioned value to the applicant's income. It would not count, in other words, in determining whether the applicant's monthly income rendered him financial ineligible for M.G.L. c. 115 benefits.

Applying the approach suggested by 108 CMR 6.02, Ms. Kelleher's Fidelity annuity adds nothing to Mr. DiIorio's monthly income because he receives no income from it.

d.

The DVS Secretary's guidelines (see Exh. 6) compel no different conclusion.

The guidelines-related materials before me say nothing about considering spousal income in determining benefits eligibility. "Spouse" is mentioned only once in these materials, in the "Schedule of Benefits Chart" effective January 1, 2007, which sets a higher maximum benefit for a "married applicant living with a spouse" ($775.00) than it does for a "single applicant living alone" ($575.00). The higher benefit for a married applicant living with a spouse is not consistent with offsetting an applicant's benefits by income that the spouse receives. If a spouse's receipt of income indeed rendered an applicant less needy, one would expect DVS to prescribe lower, rather than higher, M.G.L. c. 115 benefits for a married applicant living with a spouse receiving income from any non-exempt source. The DVS Secretary's guidelines prescribe higher benefits in that circumstance, however.

The current guidelines also show that the monthly maximum income qualifying an applicant for M.G.L. c. 115 benefits increases as the number of persons in his "family unit" increases. A single-person's monthly "medical only budget" is, for example, $1,733.00, while the monthly "medical only budget" for a two-person household is $2,333.00. Exh. 6 (Letter, Chief Authorizer, Department of Veterans' Services, to Veterans' Service Officers dated February 25, 2008 re 200% federal poverty guidelines and monthly medical-only budget amounts). If spousal income were indeed considered to reduce the need for M.G.L. c. 115 benefits and counted as income to the applicant, one would expect a lower, rather than a higher, needs-based monthly maximum income for a two-person family unit including a spouse with monthly income. The guidelines take no such approach, however, and allow, instead, a higher monthly maximum qualifying income to an

applicant living with a spouse, whether the spouse receives her own monthly income or not.[4]

The guidance materials do not demonstrate, thus, that spousal income is counted under the DVS regulations in determining an applicant's financial eligibility for M.G.L. c. 115 benefits.

Conclusion

DVS should not have counted the $5,000 per month payment that Mr. DiIorio's spouse receives from her Fidelity annuity in determining whether he was financially eligible for benefits under M.G.L. c. 115. The sole source of income that should have been counted is Mr. DiIorio's monthly Social Security disability payment of $731.00, which is below the applicable $1,975.00 monthly income limit. DVS erred, therefore, in deciding that, with his spouse's monthly annuity income counted, Mr. DiIorio's income exceeded the monthly income limit and rendered him financially ineligible for M.G.L. c. 115 benefits.

Accordingly, the decision of the Department of Veterans' Services dated March 5, 2008 determining that Mr. DiIorio is not eligible for benefits under M.G.L. c. 115 and sustaining the decision of the City of Salem Department of Veterans' Services to deny benefits to him is vacated. The matter is remanded to the City of Salem Department of Veterans' Services to determine, consistent with this Decision, whether Mr. DiIorio is entitled to any benefits under M.G.L. c. 115.

SO ORDERED.

---

[4]/ It is as logical to view this higher qualifying monthly income as acknowledging that expenses for fuel, shelter and other necessities may be higher for households of two or more persons than for single-person households, and that these expenses consume a larger share of the applicant's income than would be the case if he lived alone.

Notice of Appeal Rights

This is a final agency decision. Pursuant to M.G.L. c. 115, § 2, further review of such decision may be had by any party upon application made to the Governor and Council within ten days after receipt of the decision. Whether or not an application for further review is made to the Governor and Council, this decision of the Division of Administrative Law Appeals, or the decision of the Governor and Council if an application for further review is made, is subject to judicial review in accordance with the provisions of M.G.L. c. 30A, § 14. Any such appeal must be instituted within thirty (30) days of receipt of such decision, and filed with the Superior Court Department of the Trial Court.

DIVISION OF ADMINISTRATIVE LAW APPEALS

Mark L. Silverstein
Administrative Magistrate

Dated: July 2, 2008